



Linda Jacobson (3 Copies)
RCRA Project Manager
US EPA Region VIII
8ENF-T
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Denver, Colorado 80202-1129

September 5, 2008

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Office of Enforcement
Compliance & Environmental
Justice

**CONSENT DECREE
CIVIL ACTION NO. CV 98-3-H-CCL
EAST HELENA SITE
WORK PERFORMED IN AUGUST 2008
PROGRESS REPORT #116**

Dear Ms. Jacobson:

On May 5, 1998, Asarco and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). Section XI of the Decree (Reporting: Corrective Action) requires Asarco to submit certified monthly progress reports to EPA which discuss the actions taken by Asarco in achieving compliance with the Decree. The reports are to be submitted to EPA no later than the twentieth (20th) day of the following month. The following describes only those activities that have occurred or are related to projects performed during August 2008. The historical actions taken by Asarco in achieving compliance with the Decree are contained in previous monthly progress reports.

- a. **Describe the actions, progress, and status of projects which have been undertaken pursuant to Part VII of the Decree;**

Interim Measures

On August 6, 2008, Asarco's historic resources contractor (Arcadis) submitted to EPA a revised proposal for historic recordation and context narrative that included 1) Attachment A of ancillary structures that are likely to be affected by the cleaning and demolition and 2) a historic recordation phase 1 deliverable outline.

In an August 15, 2008 letter, Asarco (through Arcadis) provided EPA, the State of Montana Department of Environmental Quality, and the Montana State Historic Preservation officer with the photographs obtained during the photo documentation task performed at the East Helena facility. This submittal

contained detailed photographic collection information (in the form of two compact diskettes) along with an updated Attachment A that referenced supporting engineering or measured drawings. The information contained in this submittal was the subject for an August 18, 2008 conference call with Asarco and the agencies. On August 19, 2008, EPA issued a letter that served as approval to commence the scheduled cleaning and demolition for calendar year 2008. On August 25, 2008, IRS Environmental Inc. mobilized to commence the pre-cleaning tasks set forth in the cleaning and demolition schedule. Asarco and its contractor continue to express concerns that uncontrollable events such as weather disruption may compromise the ability to complete the entire work set forth in the schedule.

On August 25, 2008, Asarco provide EPA with a status update and abbreviated timeline for the progress that Arcadis is making on historic documentation at the East Helena facility.

On August 26, 2008, Asarco provided EPA and the State of Montana an amended project schedule for completing the agreed upon cleaning and demolition tasks for the 2008 construction season.

Corrective Action Management Unit (CAMU)

On August 4, 2008, Hydrometrics personnel sprayed dust suppression liquid on the waste in the CAMU cell to prevent wind blown dispersion of debris. The dust suppression liquid consisted of 15 gallons of Earthbound L tackifier mixed with 6,000 gallons of water placed at the manufacturers recommended rate of 2000 gallons per acre. Also on August 4, 2008, Grizzly Fence, Inc. began installation of the temporary 60-inch woven wire fence around the CAMU cell. Installation of the temporary fence was completed on August 6, 2008. No waste was placed in the CAMU cell in the month of August 2008. However, Hydrometrics personnel continue to inspect the cell and surrounding areas for windblown debris and monitor the leachate collection system.

Weekly construction progress meeting are being conducted each Wednesday morning. All participants are encouraged to attend or connect to the meeting through a telephone conference bridge. EPA is being provided summary minutes of each weekly meeting as well as daily and weekly CAMU construction reports, density test results, and hydraulic conductivity results from Asarco contractor.

RI/FS Long-Term Monitoring Program

During August 2008, Hydrometrics personnel conducted quarterly groundwater monitoring on the CAMU wells as outlined in the CAMU Sampling and Monitoring Plan (May 2007). The groundwater monitoring was conducted on ten wells on August 19-20, 2008. A water quality sample was not collected at groundwater monitoring well MW-7 due to insufficient water. A total of 12 water quality samples were submitted to Energy Labs in Helena Montana to be analyzed for parameters in Table C of the Updated Monitoring Program (February 2008).

The total samples included one DI blank, one rinsate blank, and one duplicate. QC samples were not submitted for the one sample collected on August 19th due to the pump malfunction prior to the QC samples being collected.

In addition to the groundwater monitoring, Hydrometrics personnel conducted slug tests on five monitoring wells (EH-118 through EH-122) as part of the 2008 Addendum to Interim Measures Work Plan East Helena Facility, 2008 Groundwater Investigation Work Plan (March, 2008). Two slug tests were rerun on the Speiss/Dross monitoring wells due to inconclusive results from the original test conducted in September 2007.

Hydrometrics conducted oversight of groundwater monitoring well repairs conducted by H&L Drilling at well EH-54 to repair damage from a lawnmower hitting the well casing. The well was converted to a flush mount and will need to be resurveyed for the new measuring point elevation. In addition, upon inspecting the abandonment of the private well at 301 Gail Street, it was observed that the abandonment was not conducted properly (well only capped) Hydrometrics personnel instructed H&L Drilling to properly abandon the well by filling the hole with bentonite and removing the casing three feet below the surface as is prescribed under the Montana Well Abandonment Protocol.

On August 6, 2008, Asarco conducted the monthly sampling of select residential groundwater wells, as prescribed in RI/FS Long-Term Monitoring Program (February 2008). Copies of the July 2008/August 2008 residential well notification cover letters along with the respective laboratory analytical reports have been attached to this monthly progress report.

On August 18, 2008, Asarco submitted to EPA three computer diskette copies of the Validation Summary, Asarco East Helena Interim Measures, Post/RI/FS Long-Term Monitoring Project, Surface Water, Groundwater, and CAMU Wells, Quarterly Sampling Event, Inorganic and Organic Analyses, April and May 2008 Inorganic and Organic East Helena Water Data Base, Asarco East Helena Facility. The hard copy of the package was submitted to EPA in the July 2008 RCRA Consent Decree progress report.

On August 20, 2008, Asarco submitted to EPA the total metal soil results for samples collected from monitoring wells DH-68, DH-69, DH-70, and DH-71. Based on the laboratory analysis and the theoretical maximum leachate metal concentrations that would be released if all available metal elements were available, Asarco sees little need to conduct the SPLP testing. Asarco is willing to provide any of the available samples to the EPA Office of Research and Development.

On August 21, 2008, Asarco submitted to EPA five groundwater plumes maps that were prepared using the May 2008 groundwater data.

A summary of the correspondence transmitted as part of the East Helena Consent Decree in August 2008 is included in Attachment 1.

- b. Identify any requirements under the Part VII of the Decree that were not completed in a timely manner, and problems or anticipated problem areas affecting compliance with the Decree;**

There were no other requirements that were not completed in a timely manner nor were there problems or anticipated problem areas that may affect compliance with the Decree.

- c. Describe projects completed during the prior month, as well as activities scheduled for the next month;**

In accordance with the 1) 2006 Interim Measures Work Plan Addendum, Final Cleaning, Soil Sampling, Backfilling, and Interim Cap Work Plan and 2) 2006 Interim Measures Work Plan Addendum, Former Acid Plant Sediment Drying Area Slurry Wall, Monitoring, Operation, and Maintenance Work Plan, four areas in which interim caps have been installed are being inspected on a monthly basis with the most recent inspections occurring on August 6, 2008.

CAMU Landfill - In accordance with the July 2000 CAMU Design Analysis Report (Operation and Maintenance Plan), the CAMU is being inspected monthly with the last inspection occurring on August 4, 2008. This monthly inspection documented the condition of the CAMU.

During September 2008, Asarco is scheduled to submit the Addendum to Interim Measures Work Plan, Former Speiss-Dross Area Slurry Wall, Monitoring, Operation and Maintenance Work Pan Report. Field activities that are scheduled to be conducted in September 2008 include completing the slug test on the new groundwater monitoring wells as part of the 2008 Addendum to Interim Measures Work Plan East Helena Facility, 2008 Groundwater Investigation Work Plan (March 2008) and completing the survey on groundwater monitoring well EH-54. The cleaning and demolition tasks set forth in the August 26, 2008 schedule will continue in September 2008.

- d. Describe and estimate the percentage of studies completed;**

The Pump and Treat Pilot Scale Testing for Source Area Reduction of Groundwater Contamination is approximately 100% complete.

The jar testing (Phase I) of the East Helena PRB Materials Testing Program is 100% complete.

The slurry wall construction in the former acid plant sediment drying area is 100% complete. On July 24, 2008, Asarco submitted to EPA the Addendum to

Interim Measures Work Plan, Former Acid Plant Sediment Drying Wall, Monitoring, Operations, and Maintenance Report, Asarco East Helena Facility.

The interim capping project for the former acid plant sediment drying area, dross area, sinter plant area, gas cleaning section of the acid plant, and thaw house is 100% complete.

The revised January 2008 CAMU Phase 2 Cell Design Analyses is 100% complete, the CAMU Phase 2 Cell financial assurance is fully funded, and construction of the CAMU Phase 2 cell is approximately 15% complete.

The slurry wall construction in the former speiss-dross plant area is 100% complete.

e. Describe and summarize all findings to date;

The details of past findings through July 2008 are described and summarized in previous monthly progress reports.

f. Describe actions being taken to address problems;

There were no other actions required to address problems associated with the Decree.

g. Identify changes in key personnel during the period;

Asarco continues to use the services of Asarco technical personnel and Hydrometrics Incorporated to perform the various activities required under the Consent Decree.

h. Include copies of the results of sampling and tests conducted and other data generated pursuant to work performed under Part VII of the Decree since the last Progress Report. Asarco may submit data that has been validated and confirmed by Asarco to supplement any prior submitted data. Updated validated and confirmed data shall be included with the RFI Report, if not delivered before;

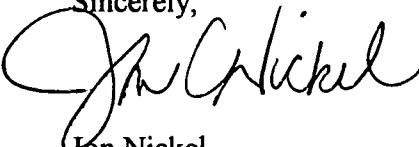
Two validation packages entitled "*Validation Summary, Asarco East Helena Post RI/FS Long-Term Monitoring Program, East Helena Residential Groundwater, Inorganic Analyses, July 2008 Sample Event*" and "*Validation Summary, Asarco East Helena Post RI/FS Long-Term Monitoring Program, East Helena Residential Groundwater, Inorganic Analyses, August 2008 Sample Event*" are attached to this monthly progress report.

i. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect

them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

ASARCO filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Bankruptcy Code in the Southern District of Texas on August 9, 2005. ASARCO hopes to use its chapter 11 bankruptcy proceeding to improve its financial position to the point where it can successfully reorganize and emerge from bankruptcy. ASARCO further hopes that at that time it will be in a position to make the required financial assurance demonstration. Asarco has established the necessary CAMU Phase 2 Cell financial assurance and has provided EPA with the complete executed original of the CAMU Trust Fund Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Nickel". The signature is fluid and cursive, with the first name "Jon" and last name "Nickel" clearly distinguishable.

Jon Nickel

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

I certify under penalty of law that this document, August 2008 Progress Report and all attachments, were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Signature 

Name: Thomas L. Aldrich

Title: Vice President Environmental Affairs

Date: September 3, 2008

CONSENT DECREE
EAST HELENA SITE
AUGUST 2008 PROGRESS REPORT

SUMMARY OF CORRESPONDENCE
ATTACHMENT 1

DATE OF TRANSMITTAL	CORRESPONDENCE SENT FROM	CORRESPONDENCE SENT TO	SUBJECT	RESPONSE
August 6, 2008	Jon Nickel	Linda Jacobson	Historic Recordation and Context Narrative	No Formal Approval Required
August 15, 2008	Jon Nickel	Linda Jacobson	Historic Recordation (Two Diskettes) and updated Appendix A	August 19, 2008 EPA Approval to Begin Cleaning and Demolition
August 18, 2008	Jon Nickel	Linda Jacobson	Validation Report (Three Diskettes)	No Formal Response Required
August 20, 2008	Bob Miller	Linda Jacobson	Split Samples Results for Four Groundwater Monitoring Wells	No Formal Response Required
August 21, 2008	Jon Nickel	Linda Jacobson	Groundwater Plume Maps	No Formal Response Required
August 25, 2008	Jon Nickel	Linda Jacobson	Historic Documentation Update	No Formal Response Required
August 26, 2008	Jon Nickel	Linda Jacobson	Amended 2008 Cleaning and Demolition Schedule	Awaiting EPA Approval
Throughout August 2008	Jon Nickel and Mark Rhodes	Linda Jacobson	CAMU Phase 2 Cell - Daily and Weekly Progress Reports	No Formal Response Required
Attached to This Monthly Progress Report	Jon Nickel	Linda Jacobson	Residential Well Notification Letters	No Formal Response Required

Attached to This Monthly Progress Report	Jon Nickel	Linda Jacobson	Validation Summary, Asarco East Helena Post RI/FS Long- Term Monitoring Program, East Helena Residential Groundwater, Inorganic Analyses, July 2008 Sample Event	No Formal Response Required
Attached to This Monthly Progress Report	Jon Nickel	Linda Jacobson	Validation Summary, Asarco East Helena Post RI/FS Long- Term Monitoring Program, East Helena Residential Groundwater, Inorganic Analyses, August 2008 Sample Event	No Formal Response Required